IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11835 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRITHVISINH R PARMAR

Versus

G.S.R.T.C

Appearance:

1. Special Civil Application No. 11835 of 2003

MR YV VAGHELA for Petitioner No. 1

MR ASHISH M DAGLI for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 03/09/2003

ORAL JUDGEMENT

Rule. Learned advocate Shri Dagli waives service of rule on behalf the respondents.

At the request of the learned advocates, the petition is finally heard today.

2. The petitioner is a licensee who is doing business of selling pan-cigarette etc., at Bhavnagar Bus Depot of respondent no.1 - Corporation. The petitioner was permitted to do his business under the license which expired by afflux of time on 28.02.2003 and, therefore, the petitioner was supposed to vacate the place of his business on 28.02.2003 but it has been submitted by the learned advocate that till today the respondent authorities have not decided whether the license of the petitioner should be renewed or some other person should be given license to do business at the same place.

3. In view of the above circumstances, the petitioner approached this Court and the petitioner was given protection by this Court to the effect that till the tenders invited by the respondent authorities for allotment of the place in question are finalised, the petitioner should not be asked to vacate his place of business and in pursuance of that order passed by this Court in Special Civil Application no.1858 of 2003, the petitioner is still in occupation of the premises and is doing his business.

4. Learned advocate Shri Vaghela appearing for the petitioner has submitted that the respondent authorities have not finalised the offers invited by them and the petitioner does not know his fate. In the circumstances, the respondent authorities should be directed to take final decision as to whether the petitioner should be permitted to do his business.

5. On the other hand learned advocate Shri Dagli appearing for the respondent authorities has submitted that the offers have already been invited by the respondents and tenders are likely to be opened somewhere in the last week of September, 2003. According to him, possibly somewhere in the first or second week of October, 2003 final decision would be taken in pursuance of the exercise initiated by the respondents. Thus latest by the end of October, decision with regard to giving place in question on license to someone shall be finalised. It has been further submitted by him that there is a policy of the respondent authorities to the effect that if a licensee has also given an offer for a fresh license after completion of the period for which he is permitted to do his business, such a licensee is permitted to continue to occupy the place of business

provided he pays 30% more than the license fees which he was paying.

6. It has been further submitted by him that if the petitioner is ready and willing to pay 30% more than the monthly rent which the licensee was paying in the past, the petitioner will not be disturbed. He has submitted that by virtue of the earlier license, the petitioner was paying a sum of Rs.12,500=00 per month to the respondent authorities and if the petitioner is prepared to pay Rs.16,267=00 per month for using the place in question for doing business, the petitioner would not be disturbed from his place till final decision is taken by the respondent - authorities.

7. Upon hearing the learned advocates , it appears that it would be just and proper to permit the petitioner to continue doing his business at the place in question till 30.10.2003, because it appears that by that time final decision is likely to be taken by the respondent authorities with regard to the allotment of the place in question provided the petitioner is ready and willing to pay in all Rs.16,267=00 per month.

7. Learned advocate Shri Vaghela, in pursuance of instruction received from his client, who is present in the Court, has submitted that the petitioner is ready and willing to pay a sum of Rs.16,267=00 per month with effect from 01.09.2003.

8. In view of the above development, which has taken place in the matter, it is directed that the respondent authorities shall not evict the petitioner from the place of business allotted to him till 30.10.2003, if the petitioner pays a sum of Rs.16,267=00 by way of ad hoc license fee per month. It is also hoped that the respondent authorities shall finalise the decision for allotment of the place in question as soon as possible and preferably before 30.10.2003.

In view of the above order, the petition stands disposed of as allowed. Rule is made absolute to the above extent with no order as to costs.

Direct Service is permitted.

[A.R. DAVE, J.]

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